

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1017

Citations Affected: IC 13-23-12-7; IC 13-11-2-38.3; IC 13-18-20-11.5; IC 13-11-2-144.8; IC 13-18-17-5.

Synopsis: Various environmental matters. Conference committee report for EHB 1017. Prohibits a penalty from being assessed against the owner of an underground storage tank for failure to pay an annual registration fee in connection with the tank that was due before January 1, 2004, if the owner registered the tank before January 1, 2004. Provides that obtaining a National Pollutant Discharge Elimination System (NPDES) permit for a concentrated animal feeding operation (CAFO) meets the approval requirements of IC 13-18-10-1 and 327 IAC 16. Establishes fees to be remitted to the Indiana department of environmental management (IDEM) for general and individual NPDES permits for CAFOs. Prohibits adoption of a rule by the state department of health (ISDH) if the proposed rule applies to onsite sewage systems the nitrate and nitrite numeric criteria included in groundwater quality standards adopted by the water pollution control board. Voids any rule adopted by ISDH to the extent that the rule is adopted for that purpose. Requires IDEM and the ISDH to jointly prepare a report concerning onsite sewage systems and nitrates and nitrites in groundwater. Extends to July 1, 2006, the prohibition against adoption of a new rule by an environmental rulemaking board or adoption of a new policy by IDEM if the new rule or policy would require certain industries to comply with standards of conduct that exceed federal standards. Excepts from the prohibition the adoption of a new rule by the air pollution control board that is necessary to attain or maintain certain air quality standards. **(This conference committee report: (1) inserts the contents of SB 22 as it passed the Senate; (2) inserts the contents of SB 152 as it passed the Senate; and (3) inserts the contents of SB 189 as it passed the Senate.)**

Effective: Upon passage; July 1, 2004.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1017 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 environmental law.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 13-23-12-7, AS AMENDED BY P.L.14-2001,
- 6 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2004]: Sec. 7. (a) **Except as provided in subsection (e)**, an
- 8 owner of an underground storage tank who:
- 9 (1) is required to pay the fee under section 1 of this chapter; and
- 10 (2) fails to pay the fee when due as established under section 2 of
- 11 this chapter;
- 12 shall be assessed a penalty of not more than two thousand dollars
- 13 (\$2,000) per underground storage tank for each year that passes after
- 14 the fee becomes due and before the fee is paid.
- 15 (b) Except as provided in subsection (c), each penalty assessed under
- 16 this section and collected from the owner of an underground petroleum
- 17 storage tank shall be deposited as follows:
- 18 (1) Fifty percent (50%) shall be deposited in the petroleum trust
- 19 fund.
- 20 (2) Fifty percent (50%) shall be deposited in the excess liability
- 21 trust fund.

(c) Penalties assessed under this section and collected from owners of underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

(d) The penalty set forth in this section is in addition to the penalties that may be imposed under the following:

(1) IC 13-23-14-2.

(2) IC 13-23-14-3.

(3) IC 13-23-14-4.

(4) IC 13-30-4.

(5) IC 13-30-5.

(6) IC 13-30-6.

(7) IC 13-30-8.

(e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter:

(1) in connection with the underground storage tank; and

(2) that was due before January 1, 2004.

SECTION 2. IC 13-11-2-38.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-10 and IC 13-18-20, has the meaning set forth in 40 CFR 122.23.**

SECTION 3. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.**

(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.

SECTION 4. IC 13-18-20-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:**

(1) an initial; or

(2) the renewal of a;

general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars (\$100) to the department.

(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:

(1) an initial; or

(2) the renewal of an;

individual NPDES permit for a CAFO, the person must remit a permit fee of two hundred fifty dollars (\$250) to the department.

(c) If a person is subject to a fee for a CAFO under this section,

no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

SECTION 5. IC 13-11-2-144.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 144.8. "Onsite sewage system", for purposes of IC 13-18-17, means all equipment and devices necessary for proper:**

(1) onsite:

(A) conduction;

(B) collection;

(C) storage; and

(D) treatment; and

(2) absorption in soil;

of sewage from a residence or a commercial facility.

SECTION 6. IC 13-18-17-5, AS AMENDED BY P.L.168-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) The ~~water pollution control~~ board shall adopt rules under IC 4-22-2 establishing groundwater quality standards that include numeric and narrative criteria, a groundwater classification plan, and a method of determining where the groundwater quality standards must apply. The standards established under this subsection shall be used for the following purposes:**

(1) To establish minimum compliance levels for groundwater quality monitoring at regulated facilities.

(2) To ban the discharge of effluents into potable groundwater.

(3) To establish health protection goals for untreated water in water supply wells.

(4) To establish concentration limits for contaminants in ambient groundwater.

(b) Except as provided in subsection (c) and subject to subsection (d), the following agencies shall adopt rules under IC 4-22-2 to apply the groundwater quality standards established under this section to activities regulated by the agencies:

(1) The department.

(2) The department of natural resources.

(3) The state department of health.

(4) The office of the state chemist.

(5) The office of the state fire marshal.

(c) The executive board of the state department of health may not adopt rules to apply the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

(d) Any rule adopted by the executive board of the state department of health is void to the extent that the rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the Indiana water pollution control board under subsection (a) to onsite

sewage systems.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "onsite sewage system" has the meaning set forth in IC 13-11-2-144.8, as added by this act.

(b) The department of environmental management and the state department of health shall jointly:

(1) prepare a report that includes the following:

(A) a review of literature and recent research to document:

(i) the effect of nitrates and nitrites in drinking water on public health;

(ii) the effect of onsite sewage systems on levels of nitrates and nitrites in groundwater;

(iii) the movement of nitrates and nitrites in soils; and

(iv) the onsite sewage system technologies available to achieve compliance with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004; and

(B) the impact if newly installed onsite sewage systems were required to comply with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004, including:

(i) the number of residences and commercial facilities affected; and

(ii) the cost of implementation; and

(2) submit the report referred to in subdivision (a) before January 1, 2009, to:

(A) the governor;

(B) the executive director of the legislative services agency in an electronic format under IC 5-14-6; and

(C) the environmental quality service council.

(c) This SECTION expires January 1, 2009.

SECTION 8. P.L.231-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6.

(a) Except as provided in subsection (b), before July 1, ~~2005~~, 2006, the:

(1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and

(2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001, ~~and~~ 2002, and 2003 to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality

standards as part of a state implementation plan submitted to the
 United States Environmental Protection Agency under Section 110
 of the federal Clean Air Act (42 U.S.C. 7410a).

(c) The following are the industries referred to in subsection (a)
 functioning under the following primary Standard Industrial
 Classification (SIC) codes:

- (1) Blast furnaces and steel mills (3312).
- (2) Gray and ductile iron foundries (3321).
- (3) Malleable iron foundries (3322).
- (4) Steel investment foundries (3324).
- (5) Steel foundries (3325).
- (6) Aluminum foundries (3365).
- (7) Copper foundries (3366).
- (8) Nonferrous foundries (3369).

~~(c)~~ (d) This SECTION expires July 1, ~~2005~~ 2006.

SECTION 9. **An emergency is declared for this act.**

(Reference is to EHB 1017 as reprinted February 24, 2004.)

Conference Committee Report
on
Engrossed House Bill 1017

Signed by:

Representative Grubb
Chairperson

Senator Gard

Representative Wolkins

Senator Hume

House Conferees

Senate Conferees